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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,346	10/23/2003	Wolfgang Gauckler	GAUCKLER	8545
7590 04/19/2005 Henry M. Feiereisen Suite 4714 350 Fifth Avenue New York, NY 10118			EXAMINER WASHBURN, DOUGLAS N	
			ART UNIT 2863	PAPER NUMBER

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/692,346	GAUCKLER ET AL.	
	Examiner	Art Unit	
	Douglas N. Washburn	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20 November 2003</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1 The attempt to incorporate subject matter into this application by reference (§ 0042) to a "co-pending application filed on the same day" is ineffective because it fails to "identify the application number (consisting of the series code and serial number) or international application number and international filing...". See MPEP § 609.

Correction is required.

### ***Information Disclosure Statement***

The information disclosure statement filed 20 November 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because

(i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

(ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Claim Objections***

2 Claims 1, 6 and 9 are objected to because of the following informalities:

Claim 1, line 9 "**based the at least one** attribute...";

Examiner suggests "**based on the at least one** attribute...".

Claim 1, line 12 " based on an additional attribute..." and lines 14 and 15 "...the additional attribute." lack antecedence because it is unclear to which attribute the applicant is referring.

Claim 6, line 3 "the respective attribute..." lacks antecedence because it is unclear to which attribute the applicant is referring.

Claim 9, line 3 "...the higher rank and vice versa." is unclear because the phrase "vice versa" is unclear as to what the applicant regards as the claimed limitation (i.e. a lower rank? diagnoses having the lowest number of attributes identified as a symptom?).

Correction is required.

***Claim Rejections - 35 USC § 102***

3 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by McCown et al. (US 5,067,099)(Hereafter referred to as McCown).

McCown teaches:

Associating at least one attribute with the plurality of diagnoses in regard to claim 1

(e.g.; column 5, lines 47-54);

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Associating at least one symptom description representing the technical system with the at least one of the attributes in regard to claim 1

(e.g.; column 5, lines 54-60);

Iteratively diagnosing an exception situation of the system by an attribute-related and/or symptom-related analysis of the plurality of diagnoses by, based on the at least one attribute, identifying and outputting those diagnoses associated with the attribute which have a symptom description with a value that is different from an expected result in regard to claim 1

(e.g.; column 6, lines 8-12);

Iteratively diagnosing an exception situation of the system by an attribute-related and/or symptom-related analysis of the plurality of diagnoses by, based on an additional attribute, identifying and outputting from the identified diagnoses having a symptom description with a value that is a different from the expected result, the diagnosis associated with the additional attribute in regard to claim 1

(e.g.; column 6, lines 16-20);

Attributes having a symptom description with a value different from the expected result are associated with a corresponding symptom in regard to claim 2

(e.g.; column 6, lines 10-12);

Attributes identified as a symptom are associated with and/or outputted in an attribute list in regard to claim 3

(e.g.; column 8, lines 22-25 );

A step of performing the attribute-related and/or symptom-related analysis of the plurality of diagnoses is executed until for one diagnosis all attributes associated with the diagnosis have been identified as a symptom in the attribute list for the exception situation in regard to claim 4

(e.g.; column 8, lines 29-35);

If a value for a predetermined attribute deviates from the expected result, the diagnosis or each associated diagnosis is assigned to a suspect diagnostic list in regard to claim 5

(e.g.; column 8, lines 43-47);

A step of defining an association function that describes the symptom description associated with the respective attribute (examiner interprets "the respective attribute" to mean 'second attribute'), said association function generating a truth value indicating if an attribute value is present as an element among a particular number of values representing the association function, or not in regard to claim 6

(e.g.; column 11, lines 37-50);

The value of an attribute is determined or entered by a user in regard to claim 7

(e.g.; column 7, lines 28-29);

If a value for a predetermined attribute deviates from the expected result, the diagnosis or each associated diagnosis is assigned to a suspect diagnostic list, and wherein the attributes of the attribute list identified as symptoms and/or the diagnoses of the suspect diagnostic list are outputted in an order that corresponds to a predetermined or predeterminable rank or relevance in regard to claim 8

(e.g.; column 12, lines 7-19);

The diagnosis having the largest number of attributes identified as a symptom is placed in the suspect diagnostic list with the higher rank, and vice versa (examiner interprets “vise versa” to mean ‘diagnosis having the lowest number of attributes identified as a symptom is placed in the suspect diagnostic list with the lower rank’) in regard to claim 9

(e.g.; column 12, lines 7-19);

At least one means for storing a plurality of diagnoses having at least one attribute associated therewith, wherein at least one symptom description is associated with the at least one attribute in regard to claim 10

(e.g.; column 7, lines 36-41);

First program code means for iterative analysis of an exception situation of the technical system based on a symptom-related and/or or attribute-related analysis of a corresponding diagnosis, wherein based on the corresponding diagnosis an attribute representing the diagnosis and a symptom description of the attribute is determined and checked in regard to claim 10

(e.g.; column 7, lines 36-41);

Second program code means for generating an attribute list, wherein the corresponding attribute is transferred as a symptom into the attribute list if the attribute has a value different from an expected result in regard to claim 10

(e.g.; column 7, lines 36-41);

Third program code means for interactively outputting the attribute list, capable of evaluating a corresponding diagnosis based on attributes that have not been identified as a symptom in regard to claim 11

(e.g.; column 7, lines 36-41);

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Fourth program code means for generating a suspect diagnostic list used in the attribute-related analysis of the corresponding diagnosis based on the at least one symptom description in regard to claim 12

(e.g.; column 7, lines 36-41);

**Conclusion**

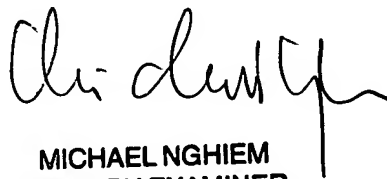
4 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas N. Washburn whose telephone number is (571) 272-2284. The examiner can normally be reached on Monday through Thursday 6:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DNW

  
MICHAEL NGHIEM  
PRIMARY EXAMINER

4/18/05